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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,083	06/27/2001	Kiyoomi Utsumi	33732	4255

116 7590 08/09/2004

PEARNE & GORDON LLP  
1801 EAST 9TH STREET  
SUITE 1200  
CLEVELAND, OH 44114-3108

EXAMINER
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VO, HUYEN X

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/893,083	<b>Applicant(s)</b> UTSUMI, KIYOOMI	
	<b>Examiner</b> Huyen Vo	<b>Art Unit</b> 2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/6/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 7-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, computer program. Since computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process without a computer-readable medium needed to realize the computer program's functionality. Therefore, the envelope generation, compression, and expansion program capable of being executed by computer are a nonstatutory functional descriptive material.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Patent Laid-Open Publication No. H06-164277.

5. Regarding claims 1 and 4, Patent Laid-Open Publication discloses an envelope generator and method, comprising:

- an input terminal for having a signal inputted therein (*element 61 in fig 5*);
- a first integrator for generating intermediate state of envelopes with a first attack time and a first release time in response to changes in level of said signal inputted through said input terminal to impart said intermediate state of envelopes to said signal (*see figure 1, sections [0021]-[0022], and element 66 in figure 5*);

- a second integrator for respectively modifying said intermediate state of envelopes into final state of envelopes with a second attack time and a second release time in response to changes in level of said signal imparted said intermediate state of envelopes (*see figure 1, sections [0021]-[0022], and element 66 in figure 5*); and

- an output terminal for outputting said signal with said final state of envelopes therethrough (*output terminal 68 in figure 5*).

6. Regarding claims 2-3 and 5-6, Patent Laid-Open Publication discloses an audio compression/expansion apparatus and method, comprising:

- an input terminal for having an audio signal inputted therein (*element 61 in figure 5*);

- a sampling element for periodically sampling said audio signal to obtain an absolute value in level of said audio signal (*the sampling element is inherently*

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*included in the system for sampling the signal into sample points inputted at element 61 in figure 5);*

a subtracter for acquiring a difference between said absolute value and a predetermined threshold value (*element 64 in figure 5*);

a gain generator for generating a gain signal based on said difference between said absolute value and said predetermined threshold value (*section [0014], particularly "the multiplied attack signal is then adjusted its signal level". This indicates that a gain generator is included in the system*);

an envelope generator including a first integrator for generating intermediate state of envelopes with a first attack time and a first release time in response to changes in level of said gain signal to impart said intermediate state of envelopes to said gain signal (*see figure 1, sections [0021]-[0022], and element 66 in figure 5*), and a second integrator for respectively modifying said intermediate state of envelopes into final state of envelopes with a second attack time and a second release time in response to changes in level of said gain signal imparted said intermediate state of envelopes (*see figure 1, sections [0021]-[0022], and element 66 in figure 5*);

a multiplier for multiplying said audio signal by said gain signal with said final state of envelopes (*element 67 in figure 5*); and

an output terminal for outputting said audio signal multiplied by said gain signal therethrough (*output terminal 68 in figure 5*).

### **Conclusion**

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Vo whose telephone number is 703-305-8665. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 703-305-4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner Huyen X. Vo

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August 3, 2004

W. R. YOUNG  
PRIMARY EXAMINER